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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

Dennis C. Burleson,]	C.A. No. 0:04-1996-10BD
Plaintiff,]	
-vs-]	
]	
JO ANNE B. BARNHART,]	
COMMISSIONER OF SOCIAL]	
SECURITY,]	
Defendant.]	
]	

This is an action brought pursuant to Section 205(g) of the Social Security Act, codified as amended at 42 U.S.C. § 405(g) in which the plaintiff claims entitlement to Disability Insurance Benefits (DIB) based upon his inability to work due to chronic back pain. Plaintiff's complaint charges that the findings of fact and conclusions of law as set forth in the Administrative Law Judge's decision are contrary to law and unsupported by substantial evidence. By answer, the Commissioner *inter alia* denied that the Commissioner's determination was unsupported by substantial evidence and prayed for a judgment affirming the Commissioner's decision denying the plaintiff benefits.

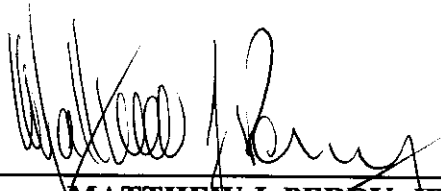
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In accordance with 28 U.S.C. § 636(b)(1)(B) and the local rules of this court, this matter was referred to United States Magistrate Judge Bristow Marchant for a Report and Recommendation. Upon review the Magistrate Judge has recommended that the

Commissioner's decision denying the plaintiff benefits be reversed under Sentence Four of 42 U.S.C. § 405(g) and remanded to the Commissioner for the purpose for further evaluation of new evidence submitted to the Appeal's council by the plaintiff. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. Mathews v. Weber, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portions of the Magistrate Judge's recommendation to which specific objection is made, and it may accept, reject, or modify, in whole or in part, the recommendations made by the Magistrate Judge.

Neither party has objected to the Magistrate Judge's recommendation. Upon review, the Court approves the recommendation of the Magistrate Judge. The decision of the Commissioner is hereby remanded to the Commissioner for further proceedings as outlined in the Report and Recommendation of Magistrate Judge Marchant.

IT IS SO ORDERED.



 MATTHEW J. PERRY, JR.
 SENIOR UNITED STATES DISTRICT JUDGE

Columbia, South Carolina,

